

**STATEMENT OF PROCEEDINGS
FOR THE REGULAR MEETING
OF THE LOS ANGELES COUNTY CLAIMS BOARD
HELD IN ROOM 648 OF THE KENNETH HAHN HALL OF ADMINISTRATION,
500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012
ON
MONDAY, MAY 16, 2011, AT 9:30 AM**

Present: Chair John Naimo, Laurie Milhiser and John Krattli

1. **Call to Order.**
2. **Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.**

No members of the public addressed the Claims Board.

3. **Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code section 54956.9).**
 - a. **Inge Wiersema v. County of Los Angeles, et al.
Los Angeles County Superior Court Case No. SC 097 130**

This dangerous condition lawsuit arises from personal injuries sustained in a bicycle accident which occurred on Pacific Coast Highway.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$390,000.

Vote: Unanimously carried
Absent: None

[See Supporting Documents](#)

4. Report of actions taken in Closed Session.

The Claims Board reconvened in open session and reported the actions taken in closed session as indicated under Agenda Item No. 3 above.

5. Approval of the minutes of the May 2, 2011, meeting of the Claims Board.

Action Taken:

The Claims Board approved the minutes.

Vote: Unanimously carried

Absent: None

[See Supporting Document](#)

6. Adjournment.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Inge Wiersema v. County of Los Angeles, et al.
CASE NUMBER	SC097130
COURT	Los Angeles Superior Court
DATE FILED	06/12/2008
COUNTY DEPARTMENT	Waterworks District/Department of Public Works
PROPOSED SETTLEMENT AMOUNT	\$ \$390,000
ATTORNEY FOR PLAINTIFF	Vana Parker Margolese, Esq.
COUNTY COUNSEL ATTORNEY	Tighe F. Hudson Principal Deputy County Counsel
NATURE OF CASE	<p>This lawsuit arises from a bicycle accident which occurred midday on May 28, 2007, Inge Wiersema (then age 36) was thrown from her bicycle when she struck a pothole-like condition involving a Waterworks District manhole/valve cover on the State's right of way. The accident occurred on a bicycle path which exists along this section of Pacific Coast Highway.</p> <p>State had issued Waterworks District an encroachment permit which contained an indemnify provision obligating Waterworks</p>

District to indemnify State for any loss or damages arising from claims against State involving Waterworks District activity on the State's right of way.

As a result of the fall, plaintiff sustained serious injuries and was airlifted by helicopter to the UCLA Medical Center. She was hospitalized for compression spinal fractures and a broken collar bone. She underwent an open reduction and internal fixation of her left clavicle and a steel plate was inserted.

Due to the inherent risks and uncertainties involved in a trial, the potential liability and potential exposure to an adverse verdict, including liability to indemnify State for any judgment against it, and attorneys' fees, Waterworks District proceeded with settlement negotiations which resulted in this recommended settlement with the plaintiff and State.

PAID ATTORNEY FEES, TO DATE	\$	\$87,463
PAID COSTS, TO DATE	\$	\$30,281



Summary Corrective Action Plan

County of Los Angeles Department of Public Works



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Claim:	Inge Wiersema
Date of incident/event:	May 28, 2007
Briefly provide a description of the incident/event:	On May 28, 2007, Ms. Inge Wiersema (plaintiff) was bicycling on the shoulder of southbound Pacific Coast Highway (PCH) at Le Herran Road, when she attempted to avoid an exposed Waterworks manhole cover that was not flush with the surrounding roadway pavement. As a result, the plaintiff fell from her bicycle and sustained injuries to her left shoulder, ribs, and spine.

1. Briefly describe the root cause of the claim/lawsuit:

Waterworks District No. 29, Malibu (Waterworks), owns and maintains the subject manhole located on the shoulder of southbound PCH, between the edge of the southbound traveled way and the guardrail. The manhole provides access to a water valve that is connected to an underground waterline. At the time of the incident, the asphalt covering the manhole cover had been chipped away, which left the manhole cover exposed and not flush with the surrounding roadway pavement. Additionally, there were pavement markings adjacent to the subject manhole cover that appeared to be consistent with markings associated with the subject Waterworks facility.

Based on our investigation, it was determined that the California Department of Transportation (Caltrans) had repaved PCH in 2000, including the shoulder containing the subject manhole. It is unclear whether under Caltrans' reconstruction specifications, the manhole should have been made flush with the surrounding pavement by their contractor.

According to Waterworks, valves are periodically tested by Waterworks personnel through opening and closing the valve in a procedure described as exercising the valve. It is not necessary for Waterworks personnel to chip away all asphalt over the entire manhole cover in order to access and exercise the water valve below. Furthermore, we have no record of work orders for the incident location prior to the incident.

From June 2002 through May 2007, Caltrans conducted at least 32 monthly inspections of the incident location. Caltrans apparently also conducted weekly inspections of the roadway and shoulders. Caltrans contends that they did not have notice of the condition of the subject manhole cover prior to the incident. Caltrans produced photo logs from 2003 that appear to show the subject manhole cover as covered by asphalt, resulting in a smooth pavement surface. No pavement markings can be seen near the subject manhole cover in the photographs. The photographs indicate that the subject manhole was exposed subsequent to 2003 and existed up to the incident date.

To date, it has not been determined who chipped the asphalt away to expose the manhole cover. However, since there are no other utilities at or near the incident location, it is highly likely that Waterworks personnel may have exposed the manhole cover. Furthermore, the pavement markings around the subject manhole suggest that Waterworks personnel may have been at the incident location prior to the incident.

County of Los Angeles Department of Public Works
 Summary Corrective Action Plan

2. Briefly describe recommended corrective actions:
 (Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

On June 30, 2009, Waterworks field personnel in the Malibu area were informed during a safety meeting that temporary asphalt repairs should be done following any asphalt removal operation on covered manholes. Such work should also be immediately reported to the Water Service Supervisor. Additional safety meetings were held on April 22 and May 13, 2010, with Waterworks field personnel in both the Malibu and Lancaster areas respectively, and a memorandum on this policy was provided to all Waterworks field personnel.

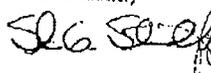
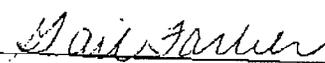
As of August 2010, Waterworks began working with Caltrans to adjust the four existing Waterworks manholes along PCH that are not flush with the roadway pavement. The four manholes will be made flush by March 2011 by Caltrans, or if necessary, by Waterworks' own forces.

For future resurfacing operations in areas where Waterworks has existing manholes, Waterworks will ensure that all affected manholes are adjusted to grade, either through other agencies or, if necessary, Waterworks will adjust any affected manholes themselves.

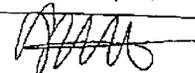
Starting in February 2011, Waterworks will review the Caltrans-required indemnity language in the Caltrans permit with County Counsel. We intend, through our combined efforts, to try to convince Caltrans to drop the permit requirement to defend and indemnify Caltrans' own active negligence.

3. State if the corrective actions are applicable to only your department or other County departments:
 (If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- Potentially has a Countywide implication.
- Potentially have Implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have Countywide or other department implications.

Signature: (Risk Management Coordinator)	Date:
	1/24/2011
Steven G. Steinhoff	
Signature: (Director)	Date:
	2-22-11
Gail Farber	

Chief Executive Office Risk Management Branch

Name:	Date:
LEO COSTANTINO	1/26/11
Signature:	Date:
	

YTL:psr
 P4:SCAP WERSEMA2

**DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN**

CLAIM OF: Inge Wiersema

INCIDENT DATE: May 28, 2007

INCIDENT LOCATION: Southbound Pacific Coast Highway at La Herran Road

RISK ISSUE:

The County of Los Angeles Waterworks District could be held liable as negligent by failing to address a potentially dangerous condition of its water facilities, which lie within the jurisdiction of another government entity.

INVESTIGATIVE REVIEW:

On May 28, 2007, Ms. Inge Wiersema (plaintiff) was bicycling on the shoulder of southbound Pacific Coast Highway (PCH) at Le Herran Road when she tried to avoid an exposed Waterworks manhole cover that was not flush with the surrounding roadway pavement. As a result, the plaintiff fell from her bicycle and sustained injuries to her left shoulder, ribs, and spine.

Waterworks District No. 29, Malibu (Waterworks), owns and maintains the subject manhole located on the shoulder of southbound PCH, between the edge of the southbound traveled way and the guardrail. The manhole provides access to a water valve that is connected to an underground waterline. At the time of the incident, the asphalt covering the manhole cover had been chipped away, which left the manhole cover exposed and not flush with the surrounding roadway pavement. Additionally, there were pavement markings adjacent to the subject manhole cover that appeared to be consistent with markings associated with the subject Waterworks facilities.

Based on our investigation it was determined that the California Department of Transportation (Caltrans) had repaved PCH in 2000, including the shoulder containing the subject manhole. It is unclear whether under Caltrans' reconstruction specifications the manhole should have been made flush with the surrounding pavement by their contractor.

According to Waterworks, valves are periodically tested by Waterworks personnel through opening and closing the valve in a procedure described as exercising the valve. It is not necessary for Waterworks personnel to chip away all asphalt over the entire manhole cover in order to access and exercise the water valve below. Furthermore, we have no record of work orders for the incident location prior to the incident.

From June 2002 through May 2007, Caltrans conducted at least 32 monthly inspections of the incident location. Caltrans apparently also conducted weekly inspections of the roadway and shoulders. Caltrans contends that they did not have notice of the condition of the subject manhole cover prior to the incident. Caltrans produced photo logs from 2003 that appear to show the subject manhole cover as covered by asphalt, resulting in a smooth pavement surface. No pavement markings can be seen near the subject manhole cover in the photographs. The photographs indicate that the subject manhole was exposed subsequent to 2003 and existed up to the incident date.

To date, it has not been determined who chipped the asphalt away to expose the manhole cover. However, since there are no other utilities at or near the incident location, it is highly likely that Waterworks personnel may have exposed the manhole cover. Furthermore, the pavement markings around the subject manhole cover suggest that Waterworks personnel may have been at the incident location prior to the incident.

POLICY ISSUES:

Waterworks personnel periodically open manholes to access and test the water valves by opening and closing the valve in a procedure described as exercising the valve. Following this procedure, Waterworks personnel would mark the roadway pavement adjacent to the manhole to indicate the number of turns needed to open and close the valve. The same information would also be recorded in a log.

CORRECTIVE ACTION:

On June 30, 2009, Waterworks field personnel in the Malibu area were informed during a safety meeting that temporary asphalt repairs should be done following any asphalt removal operation on covered manholes. Such work should also be immediately reported to the Water Service Supervisor. Additional safety meetings were held on April 22 and May 13, 2010, with Waterworks field personnel in both the Malibu and Lancaster areas respectively, and a memorandum on this policy was provided to all Waterworks field personnel.

As of August 2010, Waterworks began working with Caltrans to adjust the four existing Waterworks manholes along PCH that are not flush with the roadway pavement. The four manholes will be made flush by March 2011 by Caltrans, or if necessary, by Waterworks' own forces.

For future resurfacing operations in areas where Waterworks has existing manholes, Waterworks will ensure that all affected manholes are adjusted to grade, either through other agencies or, if necessary, Waterworks will adjust any affected manholes themselves.

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF SPECIAL MEETING

May 2, 2011

1. Call to Order.

This meeting of the County of Los Angeles Claims Board was called to order at 8:35 a.m. The meeting was held in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Claims Board Members present at the meeting were: John Naimo, John Krattli and Laurie Milhiser.

Other persons in attendance at the meeting were: Office of the County Counsel: Ruben Baeza, Jr., Brian Chu, Julie Ann Silva, Donna Koch, and Stacey Lee; Sheriff's Department: Pat Hunter; District Attorney's Office: Jacquelyn Lacey; Probation Department: Tracy Jordan-Johnson; Internal Services Department: Mark A. Colton; Office of Affirmative Action: David Kim; Outside Counsel: Catie Mathers, John Manier, Avi Burkwitz, and Thomas A. Guterres.

2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.

No members of the public addressed the Claims Board.

3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code Section 54956.9).

At 8:37 a.m., the Chairperson adjourned the meeting into Closed Session to discuss the items listed as 4(a) through 4(e) below.

4. Report of actions taken in Closed Session.

At 12:03 p.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:

a. **Steven DeCollibus v. County of Los Angeles**
United States District Court Case No. CB 09-09013

This lawsuit concerns allegations of excessive force by a Sheriff's Deputy.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$75,000.

Vote: Unanimously carried
Absent: None

b. **Elias Aldana, et al. v. County of Los Angeles, et al.**
(consolidated with Savanah Kirifi v. County of Los Angeles, et al.)
Orange County Superior Court Case No. 30-2009 00120599
(Lead consolidated with Los Angeles Superior Court Case No. BC 409 969)

This lawsuit arises from personal injuries sustained in a motor vehicle accident involving an employee of the Sheriff's Department.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$4,750,000.

Vote: Unanimously carried
Absent: None

c. **David Eng v. County of Los Angeles**
United States District Court Case No. CV 85-2686

This lawsuit concerns allegations that an employee of the District Attorney's office was subjected to retaliation.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$75,000.

Vote: Unanimously carried
Absent: None

d. **Javelon Brown-Emanuel v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 422 521

This lawsuit concerns allegations that the Probation Department failed to accommodate an employee's work restrictions.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$40,000.

Vote: Unanimously carried
Absent: None

e. **Robert Hernandez v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 436 833

This lawsuit concerns allegations that an employee of the Internal Services Department was subjected to retaliation.

Action Taken:

The Claims Board did not approve the requested settlement of this matter in the amount of \$40,000.

The vote to approve the requested settlement:

Ayes: 1 - John Krattli
Noes: 2 - John Naimo and Laurie Milhiser
Absent: None

5. **Approval of the minutes of the April 18, 2011, meeting of the Claims Board.**

Action Taken:

The Claims Board approved the minutes.

Vote: Ayes: 2 - John Naimo and John Krattli
Abstentions: 1 - Laurie Milhiser
Absent: None

6. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.

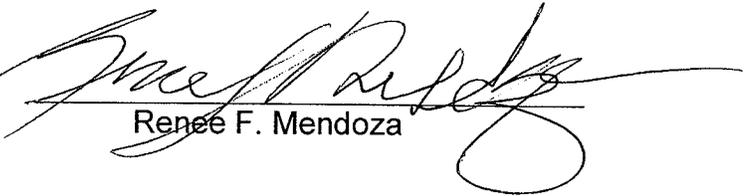
No such matters were discussed.

7. **Adjournment.**

The meeting was adjourned at 12:07 p.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By

A handwritten signature in black ink, appearing to read "Renee F. Mendoza", written over a horizontal line.

Renee F. Mendoza